

## **REMARKS**

### **STATUS OF THE CLAIMS**

Claims 1-8, 13-17, and 19-23 are pending in the application. The amendments to claims 1 and 16 have been made to further distinguish the present invention from the cited references.

Claim 18 has been canceled in light of the amendment to claim 16.

### **REJECTIONS UNDER 35 U.S.C. § 102(b) (U.S. Patent No. 5,656,368 to David L. Braun et al.)**

Claims 1-4, 6-8 and 13-15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,656,368 to David L. Braun et al. (the Braun et al. document). Firstly, the Examiner is thanked for his assistance during a telephonic Examiner Interview on Monday, January 12, 2004 in which it was agreed that neither the Braun et al. document nor any other reference of which the Examiner is aware discloses a filter medium comprising at least two filter layers, wherein the at least two filter layers are essentially the same material and each layer of the at least two filter layers has a different respective filtering property. In this regard, each of newly amended claims 1 and 16 include these elements and thus, the Applicants believe that the amendments submitted herein render this rejection moot. Therefore, withdrawal of the 35 U.S.C. § 102(b) rejection to claims 1-4, 6-8 and 13-15 as being anticipated by the Braun et al. document is respectfully requested in light of the amendments submitted herein and the following comments.

Claims 1 recites, *inter alia*, the filter medium comprising at least two filter layers, wherein the at least two filter layers are essentially the same material and each layer of the at least two filter layers has a different respective filtering property. In contrast, the Braun et al.

document is directed to a first filter element to remove particles that is made of nonwoven web of polymeric microfiber (NWPM) and a second filter element that includes sorbent granules. These sorbent granules are made of activated carbon and are included to remove gaseous contaminants (see Column 12, lines 10-36). As such, the first filter layer and the second filter layer are completely different materials. Therefore, the Braun et al. document fails to disclose a multilayered filter where the filter layers are essentially the same material and each layer of the filter layers has a different respective filtering property.

In view of the foregoing, withdrawal of the 35 U.S.C. § 102(b) rejection to claim 1 as being anticipated by the Braun et al. document is respectfully requested at least because the Braun et al. document fails to disclose a filter medium comprising at least two filter layers, wherein the at least two filter layers are essentially the same material and each layer of the at least two filter layers has a different respective filtering property. Claims 2-4, 6-8 and 13-15 depend from independent claim 1. Therefore it is respectfully submitted that claims 2-4, 6-8 and 13-15 are patentable for at least the same reasons as discussed in response to the rejection of claim 1 as being anticipated by the Braun et al. document. In light of the foregoing, withdrawal of the 35 U.S.C. § 102(b) rejection of claims 2-4, 6-8 and 13-15 as being anticipated by the Braun et al. document is respectfully requested.

REJECTIONS UNDER 35 U.S.C. § 103(a) (Braun et al. and U.S. Patent No. 6,056,809 to Chapman)

Claims 5, 16-17 and 19-23 stand rejected under 35 U.S.C. § 103(a) as being anticipated by the Braun et al. document in view of U.S. Patent No. 6,056,809 to Rick L. Chapman (the Chapman document). Claim 18 has been canceled without prejudice. Therefore it is respectfully

submitted that the rejection to the claim 18 has been obviated. With respect to the rejection of claim 5, as claim 5 depends from independent claim 1 and as the Applicants believe that claim 1 is allowable for at least the reasons recited herein, the Applicants respectfully submit that the rejection under 35 U.S.C. § 103(a) to claim 5 is moot. Thus, the Applicants respectfully request reconsideration and withdrawal of the rejection to claim 5. However, in the interest of being complete, the Applicants submit that the invention as recited in claim 5 is patentably distinct from either the Braun et al. document or the Chapman document and any combination thereof. Thus, the Applicants respectfully request reconsideration and withdrawal of the rejection to claim 5 in light of the following comments.

Claim 5 recites, *inter alia*, the filter medium comprising at least two filter layers, wherein the at least two filter layers are essentially the same material and each layer of the at least two filter layers has a different respective filtering property. As described herein, the Braun et al. document fails to disclose a filter medium comprising at least two filter layers, wherein the at least two filter layers are essentially the same material and each layer of the at least two filter layers has a different respective filtering property. In addition, the Chapman document fails to make up for the deficiencies of the Braun et al. document. In this regard, the Chapman document discloses a first filter layer consisting of polypropylene netting and a second filter layer consisting of a high loft polyester (see Column 5, lines 38-45). As such, neither the Braun et al. document, nor the Chapman document taken alone or in combination, disclose multilayered filter where the filter layers are essentially the same material and each layer of the filter layers has a different respective filtering property. In this regard and as is stated in M.P.E.P. 706.02(j), “To establish a *prima facie* case of obviousness . . . the prior art reference (or references when combined) must teach or suggest all the claim limitations.” As, neither the Braun et al.

document nor the Chapman document taken alone or in combination disclose a filter medium comprising at least two filter layers, wherein the at least two filter layers are essentially the same material and each layer of the at least two filter layers has a different respective filtering property, it is respectfully submitted that a *prima facie* case of obviousness has not been established. Therefore, the Applicants respectfully request the withdrawal of the rejection under 35 U.S.C. § 103(a) to claim 5.

Similarly, with respect to the rejection of claims 16-17 and 19-23, claim 16 recites, *inter alia*, a multilayered composite filter material having a first filter layer and a second filter layer having essentially the same media. As described herein, neither the Braun et al. document, nor the Chapman document taken alone or in combination, disclose a multilayered composite filter material having a first filter layer and a second filter layer having essentially the same media. As such, it is respectfully submitted that a *prima facie* case of obviousness has not been established. Therefore, the Applicants respectfully request the withdrawal of the rejection under 35 U.S.C. § 103(a) to claims 16-17 and 19-23.

## CONCLUSION

It is respectfully submitted that the application is now in condition for allowance. If it is believed that any further issue exists, the Examiner is invited to contact the undersigned agent by telephone if it is believed that such contact will expedite the prosecution of the application.

In the event this response is not timely received or an extension is required, the Applicants petition for an appropriate extension of time. Any additional fees may be charged to or overpayment credited to Deposit Account No. 50-2036.

Respectfully submitted,

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